

1           A.       Possibly, I thought some of that might  
2 be in many games.

3           Q.       Prior to purchasing the game, were you  
4 aware of the plot or story line of San Andreas?

5           A.       No.

6           Q.       Did you have any discussions with the  
7 sales representative or a sales representative at the  
8 store where you purchased the game?

9           A.       No.

10          Q.       Did you read the box before you  
11 purchased the game?

12          A.       I'm sure I did.

13          Q.       I don't want you to guess, so do you  
14 have a recollection sitting here today that you read  
15 the box before you purchased the game?

16          A.       I don't think I did read the box. I  
17 remember looking at the cover of the box.

18          Q.       With respect to the Entertainment  
19 Software Rating Board ratings -- I'm going to refer to  
20 that as the ESRB for short --when I refer to ESRB, I'm  
21 referring to the Entertainment Software Rating Board.

22                   Prior to bringing the lawsuit, tell me  
23 all of the ratings that you were aware of.

24          A.       I think -- I'm not sure if I've got  
25 these right. The E, I think, meant for like all. T

1 was for teen and the M was for more mature.

2 Q. Do you remember any other ratings?

3 A. No.

4 Q. As you sit here today, do you recall  
5 any other ratings?

6 A. Yes.

7 Q. What are the other ratings that you  
8 recall?

9 A. I now know there's one -- I think it's  
10 AO -- to me, it would be like an X rated movie. I  
11 think that's what it is. I'm not sure if I have that.

12 Q. With respect to the T rating, what was  
13 your understanding at the time you purchased San  
14 Andreas of the appropriate age group for such a  
15 rating?

16 A. Did you say with respect to the T or --

17 Q. Correct.

18 A. The T would be recommended for teens.

19 Q. Could you give me an age group, from  
20 what age to what age?

21 A. I would think 12 or 13 to 18.

22 Q. And with respect to M, at the time you  
23 bought San Andreas, what was your understanding of the  
24 appropriate age group for that rating?

25 A. Well, I know the recommendation was 17.

1           Q.       Now, do you know that today, or did you  
2 know that then?

3           A.       I think I knew that then.

4           Q.       When you say 17, that would be 17 and  
5 over?

6           A.       Yes.

7           Q.       Are you familiar with content  
8 descriptors that are given to games by the ESRB?

9           A.       I'm not sure what you mean by that, you  
10 mean on the back of the box, what they say about it?

11          Q.       In addition to rating games with  
12 letters such as T and M, the ESRB provides what they  
13 call content descriptors for the game which might be  
14 short descriptions which is violence, profanity --

15          A.       Oh, yes.

16          Q.       Were you familiar with the fact that  
17 those type contents existed when you purchased your  
18 San Andreas game?

19          A.       Yes.

20          Q.       What are the various content  
21 descriptors that you were aware of at the time that  
22 you purchased the San Andreas game?

23          A.       Some violence, some profanity. Some --  
24 I don't know suggested sexual scenes. I can't  
25 remember.

1           Q.       So just so we're clear, I believe what  
2 you just told me was what you recall you saw with  
3 respect to the San Andreas game as it relates to  
4 content descriptors, is that correct, or did you just  
5 tell me all of the ones that you remembered generally?

6           A.       I just told you the ones that I  
7 remembered that -- for an M game.

8           Q.       For an M game, generally. Is it your  
9 understanding that all M games have the same content  
10 descriptors?

11          A.       No, it is not my understanding. I  
12 don't think they do.

13          Q.       Okay. Let me make sure we're clear.

14          A.       Wait, maybe I heard you wrong. I think  
15 all of the games say M and they say the same thing on  
16 the Ms, but I don't think all of the games contain  
17 those kind of things.

18          Q.       So is it your understanding that a game  
19 that has a rating of M has identical content  
20 descriptors that are standard with an M game?

21          A.       Yes.

22          Q.       And where did you gain that  
23 understanding?

24          A.       By reading the back of games.

25          Q.       That was your understanding at the time

1 that you purchased San Andreas?

2 A. Yes.

3 Q. And at the time you purchased San  
4 Andreas, do you recall looking at the rating?

5 A. Yes.

6 Q. So sitting here today you have an  
7 independent recollection of looking at the rating when  
8 you purchased the game?

9 A. Yes, I think it's on the bottom -- yes,  
10 I recall looking at the rating.

11 Q. You don't recall whether you looked at  
12 the rating in a Best Buy or Target?

13 A. Correct.

14 Q. Do you have a specific recollection --  
15 strike that.

16 Is it possible that you knew before you  
17 purchased the game that the game was rate M so there  
18 wasn't any need to read the game?

19 A. Possibly.

20 Q. Do you have a specific recollection  
21 sitting here today of reading the content descriptors  
22 that were located on the box of the game?

23 A. I don't have a specific recollection.  
24 I remember the cover of the game. I don't remember  
25 the back, if that's what -- the content descriptors,

1 is that what you mean? Like how they do the synopsis  
2 on the back?

3 Q. Well, let's distinguish between the  
4 content descriptors that are provided by the ESRB in  
5 connection with the rating and the little synopsis of  
6 the game that's provided by the manufacturer.

7 So let's back up for a second. The  
8 game box has a front and back, correct?

9 A. Yes.

10 Q. When you purchased San Andreas, do you  
11 recall looking at the front of the box?

12 A. Yes.

13 Q. Do you recall looking at the back of  
14 the box?

15 A. No.

16 Q. Do you recall -- strike that.

17 What happened to the San Andreas game  
18 that you purchased?

19 A. I took it from my son.

20 Q. And where is it today?

21 THE WITNESS: Do you have it?

22 MR. NESTER: You gave it to me. You  
23 don't have to say exactly where it is so I can modify  
24 it.

25 Q. (By Mr. Steinman) Did you ever seek to

1 return the game to the store that you bought it from?

2 A. No.

3 Q. Did you ever seek to return the game to  
4 either of the defendants?

5 A. No.

6 Q. Did you ever, in any way, communicate a  
7 desire to return the game to anyone?

8 A. No.

9 Q. Let me rephrase that. Did you ever  
10 communicate to anyone your desire to return the game?

11 A. No.

12 Q. Do any of the games, other than Grand  
13 Theft Auto games owned or played by your children,  
14 have intense violence?

15 A. I don't know if I would say intense  
16 violence, but I have seen violence on the games.

17 Q. How about the use of drugs?

18 A. I'm not sure.

19 Q. To your knowledge, do any of the games,  
20 other than San Andreas, but including the Grand Theft  
21 Auto game that you mentioned earlier, the prior  
22 version, do any of these games owned by your children  
23 contain all of these things, blood and gore, intense  
24 violence plus strong language plus use of drugs, plus  
25 strong sexual content?

1 MR. NESTER: Don't answer. Could you  
2 just repeat the question?

3 Q. (By Mr. Steinman) I'll strike the  
4 question. Do any of the games owned by your children,  
5 other than San Andreas, including the prior version of  
6 Grand Theft Auto, contain strong sexual content?

7 A. No.

8 Q. Would you purchase a game for either of  
9 the children that contain strong sexual content?

10 A. No, not knowingly.

11 Q. Prior to purchasing San Andreas were  
12 you aware that there were prostitutes in the game?

13 A. No.

14 Q. Are you aware of that today?

15 A. I guess now I am.

16 Q. When you say you guess now you are --

17 A. I -- I knew there were things that I  
18 objected to such as pornography, I -- the term  
19 prostitute, I hadn't thought about.

20 Q. Is it your understanding that San  
21 Andreas contains content that can be viewed when  
22 modified?

23 A. Yes.

24 Q. My questions are directed to the game  
25 without any modification. Were you aware -- strike



1 that.

2                   Are you aware that the game contains  
3 prostitutes, the game as unmodified contains  
4 prostitutes?

5           A.       I was not aware of that.

6           Q.       When did you -- are you aware of that  
7 today?

8           A.       You just said that.

9           Q.       I'm asking questions.

10          A.       Oh, okay.

11          Q.       I'm not telling you that it does or  
12 doesn't.

13          A.       I'm not --

14          Q.       I'm not looking to trick you.

15          A.       I'm not aware of it.

16          Q.       I don't want you to assume anything by  
17 reasons of my questions.

18          A.       Okay.

19          Q.       So to your knowledge, the game does not  
20 have prostitutes?

21          A.       To my knowledge, it does not.

22          Q.       Are you aware that a player in the game  
23 can stomp to death innocent pedestrians?

24          A.       No.

25          Q.       Are you aware that a player in the game

1 can kill innocent pedestrians and steal money from  
2 them?

3 A. I'm aware that there is killing in the  
4 game. I wasn't aware of the stealing.

5 Q. And were you aware that part of the  
6 killing entailed or could entail the killing of  
7 innocent pedestrians?

8 A. No.

9 Q. Were you aware that a player in the  
10 game can cause the main character to kill policemen?

11 A. No.

12 Q. Were you aware that one of the missions  
13 in the game is to date and impress a girlfriend so you  
14 can have sex with her?

15 A. No.

16 Q. Were you aware that there was a whole  
17 girlfriend mission as part of the script of the game?

18 A. Would you rephrase that or say it  
19 again, please?

20 Q. Were you aware that one of the missions  
21 in the game relates to the dating and impressing of  
22 girlfriends?

23 A. Yes.

24 Q. How did you become aware of that?

25 A. After I heard things over the media

1 about the game, I asked my son about the game. I  
2 asked him if he had beat the game and he said yes.  
3 And I said was there a lot of sexual content and he  
4 evaded my answer and I took the game from him.

5 Q. I'm sorry?

6 A. He evaded my answer. And I don't want  
7 to say evade -- he wasn't as forthcoming as he could  
8 be. I got worried and so I took the game.

9 Q. You said that you asked your son if he  
10 had beat the game.

11 A. Right. Like he -- and that's not the  
12 word that he would have used, but there's some games  
13 that you can --

14 Q. Basically he finished the game  
15 successfully; is that it?

16 A. I guess that's basically what I mean.  
17 I think they call it something else.

18 Q. Were you aware that to successfully  
19 finish the game, and again we're referring to San  
20 Andreas, you have to kill at least approximately 2000  
21 people?

22 A. No.

23 Q. Were you aware that there's a strip  
24 club as part of the game?

25 A. When I asked him about the game after

1 reading some -- and listening on the media, I would  
2 say more than reading, he said there was a strip club  
3 and then he -- that's when he wasn't as forthcoming as  
4 I thought. That's when I took the game from him.

5 Q. When did you have this conversation  
6 with your son?

7 A. I was -- I teach, when I was off  
8 school, I think it was probably towards the end of  
9 July.

10 Q. Of 2005?

11 A. Yes.

12 Q. And you believe that you purchased the  
13 game for him when?

14 A. Probably the -- some time toward the  
15 end of June in 2005. Could have been the middle of  
16 July whenever we had this conversation. I'm not  
17 exactly sure about dates.

18 I remember watching something about it.  
19 It was a morning TV. It could have been the Today  
20 Show. And that's when I started wondering about the  
21 game.

22 Q. During the period from -- end of June  
23 2005 when you believe you purchased the game for your  
24 son through the end of July 2005 when you took the  
25 came from him, is it fair to say that that's the game

1 he played the most, to your knowledge?

2           A.       No. Not -- not really. I mean, he's  
3 -- he's very into sports and he plays the Madden  
4 games. He doesn't play the same game all the time, to  
5 my knowledge. I mean, when I walk down and look, it's  
6 not always the same game.

7           Q.       Right. But I guess I would imagine  
8 that he wanted the game and you had just purchased it  
9 for him, that would be perhaps --

10          A.       Right.

11          Q.       -- one of the games that he was playing  
12 mostly during that period after you purchased it for  
13 him?

14          A.       Correct.

15          Q.       Prior to having that conversation with  
16 your son and -- strike that.

17                    So did you say that you had seen  
18 somewhere some mention of a strip club in the game?

19          A.       No. I heard on the media about the big  
20 controversy about the game and that's when I  
21 questioned him. I'm not sure exactly when that time  
22 frame was, but -- and that's when he said something to  
23 me about a strip club being on the game. And then he  
24 -- like he just didn't give me the kind of information  
25 that I wanted, so I took the game from him.

1           Q.       What was your understanding of the  
2 controversy at that time?

3           A.       At that time, I heard that there was --  
4 there was like a media frenzy that there was  
5 pornography on the game. I wasn't -- I wasn't sure  
6 and I -- I had no idea how you could get to the  
7 pornography, and that's why I questioned him about the  
8 game and that's why I took the game.

9           Q.       And when you mentioned -- strike that.  
10                    I apologize in advance but because  
11 we're talking about things of a sexual nature, we're  
12 going to have to discuss those and by asking the  
13 questions, I don't mean to embarrass you.

14          A.       Okay.

15          Q.       There are certain things that we need  
16 to ask that are sexually related and I apologize in  
17 advance if that makes you feel uncomfortable.

18                    When you say you heard there was  
19 pornography in the game, what kind of pornography was  
20 involved?

21          A.       I'm really not -- I'm really not sure  
22 what type. When I heard the word pornography, as a  
23 mother, a teacher, as an adult, that really bothered  
24 me. Pornography means many different things. I took  
25 it as an umbrella. Any of that would have bothered

1 me. That's why I asked him about it.

2 Q. Okay. Well, as you mentioned, there's  
3 perhaps lots of different things that might fall  
4 within the umbrella of pornography. I'm trying to get  
5 a sense of what it was that you were concerned about  
6 or where you would draw the line. Was it your  
7 understanding that at the time you had this  
8 conversation with your son and took the game away,  
9 that there were depictions of sexual intercourse in  
10 the game?

11 A. That would be part of probably what I  
12 thought.

13 Q. Was it your understanding or concern  
14 that perhaps there were depictions of oral sex in the  
15 game?

16 A. Yes.

17 Q. And with respect to the depictions of  
18 oral sex, there are many different ways that that  
19 could be depicted in a video game or on a screen in  
20 terms of what you can see, it can be implied or  
21 explicit.

22 Was it your understanding that perhaps  
23 characters were engaging in activity that was clearly  
24 oral sex but not necessarily reflecting a person's  
25 penis?

1           A.       I hadn't thought about it. I didn't  
2 want him to watch pornography of any kind.

3           Q.       So, for example, if there was a scene  
4 in which you saw a man standing up and a woman  
5 kneeling down in front of him, so that her head is  
6 toward his crotch area, that is the type of thing that  
7 you didn't want your son to play?

8           A.       Correct.

9           Q.       Would that be true whether or not your  
10 son was able to control either of those two  
11 characters? Do you understand --

12          A.       Right. I wouldn't want him to be able  
13 to see things like that or control things like that.

14          Q.       Okay.

15                   MR. STEINMAN: Let's take a break now.

16                   (A temporary recess was taken at this  
17 time.)

18          Q.       (By Mr. Steinman) Before the break, we  
19 were talking about scenes suggesting oral sex and I  
20 think you testified that it's not the type -- you  
21 wouldn't want your son to either control or see such  
22 scenes in a video game, correct?

23          A.       Correct.

24          Q.       Is it also fair to say that you  
25 wouldn't buy a game for your son that contains such



1 suggestive scenes; is that correct?

2           A.       Correct. Well, to me that wouldn't be  
3 suggestive. That would be like --

4           Q.       Assuming -- just so we understand what  
5 the scene is, assuming you were able to see somebody  
6 standing up and a woman in front of him with her back  
7 to the camera facing the man with her head in the  
8 crouch area, that's the scene that we're talking  
9 about, correct?

10          A.       Correct.

11          Q.       And you would not buy a game for your  
12 son that contained any scene similar to that in  
13 nature, correct?

14          A.       Not knowingly.

15          Q.       And I don't know if I asked you this  
16 question. Is it also fair to say that you would not  
17 buy for your son a game that contains prostitutes?

18          A.       Correct.

19          Q.       Fair to say you wouldn't buy for your  
20 son a game that allows him as part of the game to kill  
21 policemen?

22          A.       Well, I think that he does have games  
23 with violence. He seen movies with that and he  
24 realizes that's a game. Not that I want him to think  
25 it's okay to do those things, but --

1 Q. But you would purchase such a game for  
2 him?

3 A. Possibly.

4 Q. You're aware that certain stores won't  
5 sell rated M games to people under 17?

6 A. I -- yes.

7 Q. And is that the reason why you  
8 purchased the game for your son because he was not  
9 able to purchase it for himself?

10 A. Yes.

11 Q. With respect to the M rating that you  
12 understood was given to San Andreas at the time you  
13 purchased it, who did you understand gave it the M  
14 rating, if you had any understanding?

15 A. I thought it was similar to the movies,  
16 how they get -- you know, that there's a group that  
17 gives movies ratings, and I assume there was a group  
18 that gave video games ratings.

19 Q. Some rating organization?

20 A. Yes.

21 Q. From your testimony, prior to  
22 purchasing San Andreas for your son, you had some  
23 concerns about buying the game, correct? You talked  
24 about speaking with people.

25 A. Yes, I had some concerns.

1 Q. And before you purchased the game, you  
2 took steps to satisfy yourself that it was okay to  
3 purchase the game for your son, correct?

4 A. Correct.

5 Q. If Ms. Nester told you it would not  
6 have been appropriate, would you still purchase it for  
7 your son?

8 A. I'm not sure that she told me it was  
9 appropriate. I knew that her children had it and I  
10 knew from sitting around at a swim meet one night, a  
11 couple parents, I don't know who it was, they were  
12 talking that their children had the game. So I  
13 assumed that it would be okay to purchase the game for  
14 my son.

15 Q. So is it fair to say that the decision  
16 you made to purchase the game for your son was based  
17 upon the knowledge that other parents similar to  
18 yourself had purchased the game for their children?

19 A. Correct.

20 Q. Prior to purchasing the game, did you  
21 do any internet research about the game?

22 A. No.

23 Q. Had you read any newspaper articles  
24 about the game?

25 A. No. Not at that time.

1           Q.       Had you read any newspaper articles  
2 about any version of the Grand Theft Auto series?

3           A.       No.

4           Q.       Would you have purchased the game for  
5 your son if you knew that the player of the game had  
6 the ability in the game to get lap dances from a strip  
7 club?

8           A.       No.

9           Q.       Would you have purchased the game for  
10 your son if you knew that part of the game entails  
11 entering into an adult novelty store?

12          A.       No.

13          Q.       Would you have purchased the game for  
14 your son if you knew that in the game you had the  
15 ability to beat someone to death with a dildo?

16          A.       No.

17          Q.       Would you have purchased the game for  
18 your son if you knew that to successfully complete the  
19 game, you had to engage in carjacking?

20          A.       Probably, yes. I mean, I think that's  
21 how -- I think that happened in the first Grand Theft  
22 Auto. I'm not positive.

23          Q.       Would you have purchased the game if  
24 you knew that one of the things required to complete  
25 the game was to assist a pimp in managing its

1 prostitutes?

2 A. No.

3 Q. Would you have purchased the game if  
4 you knew that you can use a flame thrower to light  
5 people on fire?

6 A. I knew there was violence in the game.  
7 I didn't know that there was that kind of violence in  
8 the game. I probably wouldn't have purchased it, if  
9 I'd have known that.

10 Q. Would you have purchased the game if  
11 you knew that the character can stab to death an  
12 innocent pedestrian in the neck from behind?

13 A. I knew there was violence in the game  
14 and I know that -- that he -- that he knows that it's  
15 a game and it's -- so probably -- I wouldn't -- I  
16 don't think hearing those things, but I did purchase  
17 the game knowing that there was violence in the game.

18 Q. But you didn't believe there was  
19 intense violence, did you?

20 A. Correct.

21 Q. And you wouldn't purchase the game if  
22 you knew there was intense violence?

23 A. Correct.

24 Q. I'm going to list for you some weapons  
25 that are in the game that you can kill someone with

1 and I'm going to ask you if you're aware of this. Did  
2 you know that you could kill someone with brass  
3 knuckles?

4 A. I wasn't aware that was in the game.  
5 I'm aware that you could kill somebody with brass  
6 knuckles.

7 Q. You're not aware that in the video game  
8 you can kill somebody with brass knuckles?

9 A. Right.

10 Q. All of my questions relate to the San  
11 Andreas video game. Were you aware that you could  
12 kill somebody with a baseball bat?

13 A. No.

14 Q. Were you aware that you can kill  
15 somebody with a shovel?

16 A. No.

17 Q. Were you aware that you can kill  
18 somebody with a golf club?

19 A. No.

20 Q. Were you aware that you could kill  
21 somebody with a pool stick?

22 A. No.

23 Q. Were you aware that you can kill  
24 somebody with a chain saw?

25 A. No.

1           Q.       Presumably, you're aware that you could  
2 kill people with handguns?

3           A.       Yes.

4           Q.       Were you aware that you could kill  
5 people with shotguns?

6           A.       Yes.

7           Q.       Were you aware that you could kill  
8 people with sawed off shotguns?

9           A.       We're talking in San Andreas?

10          Q.       All of my questions relate to the  
11 different ways you can kill people in the San Andreas.

12          A.       I wasn't aware that all of those ways  
13 were in there.

14          Q.       Were you aware that you could kill  
15 somebody with a Molotov cocktail?

16          A.       No.

17          Q.       With respect to the controversy about  
18 pornography in the game, did you speak to your son  
19 about his ability to access the pornography that was  
20 being written about at the time?

21          A.       I -- after I heard of it on TV, I  
22 didn't realize that -- that it just wasn't part of the  
23 game. I didn't know that you had to access it. So  
24 when I questioned him about what was on the game, and  
25 he said something about strip clubs and I asked him

1 another question and he kind of evaded the answer, he  
2 was not forthcoming, I took it from him, not knowing  
3 that -- that you couldn't just get to the pornography  
4 through the game.

5 Q. You learned later that it was necessary  
6 to modify the game?

7 A. Right.

8 Q. And that was the pornography that  
9 initially concerned you?

10 A. Right. I thought that was -- when I  
11 heard about it, I thought that it was -- that -- like  
12 if you got to a certain level of the game, that's what  
13 you got to. And that's what I questioned him about.

14 Q. At some point, you learned that you had  
15 to modify the game to access the pornography, I'm  
16 using that term because you used it, that you read  
17 about, correct?

18 A. Right. I either heard about it or I  
19 read about it.

20 Q. That you had to modify the game?

21 A. Right.

22 Q. Did you ever ask your son if he had  
23 modified the game in that fashion?

24 A. No.

25 Q. Do you know if your son ever did modify



1 the game?

2 A. I don't know if he did. I don't know  
3 if he had a chance to or he knew about it before I  
4 took it from him. I mean, -- but at the time I took  
5 it from him, I didn't know he had to modify it, so I  
6 just had been -- I assumed that you could -- like I  
7 say, get there if you got to a certain level of the  
8 game.

9 Q. Okay. But I assume you trust your son?

10 A. Yes, for the most part.

11 Q. I assume that you would trust that if  
12 your son had the game and you told him not to modify  
13 it, he would listen to you?

14 A. I would hope so.

15 Q. And is it fair to say that you haven't  
16 given the game back to your son, not because you don't  
17 trust him in connection with modifying the game, but  
18 because you have learned that the game contains all of  
19 these other things that you're not happy about?

20 A. Yes. I would say all of the above.  
21 Like -- because it could be modified and because it  
22 contained -- I was mostly concerned about -- about the  
23 pornography issue when I took the game from him.

24 Q. Correct, but taking the game from him  
25 wasn't an irreversible decision, correct?

1 A. Right.

2 Q. So at some point, you could sit down  
3 and have a conversation with your son and give him  
4 back the game and explain to him the ground rules  
5 related to modification?

6 A. No. I wouldn't give him the game back.

7 Q. Why not?

8 A. Because I -- because he's a 15 year old  
9 high school boy and -- I just don't even want to put  
10 something like that in his hands that he might be  
11 tempted to do.

12 Q. Tempted to modify it?

13 A. Correct.

14 Q. What about the fact that the game  
15 contains these things that you have since learned,  
16 including the strip club?

17 A. Well, I wouldn't give it back to him.

18 Q. So even if he couldn't modify it, you  
19 wouldn't give it back to him, would you?

20 A. Right.

21 Q. Because now you understand that putting  
22 aside the modification issue, this is a game that  
23 probably isn't appropriate for your son's age?

24 A. Well, I'm not aware of the -- all of  
25 the sexual content besides the pornography. I mean, I

1 know he said something about a strip club. You said  
2 something about prostitutes. Now I know that I  
3 wouldn't want him to have the game back.

4 Q. Even if he couldn't modify it?

5 A. Correct.

6 Q. And that's because --

7 A. I think it should have had -- with  
8 those kinds of things, it should have had a different  
9 rating.

10 Q. Or it should have warned you that there  
11 was strong sexual content?

12 A. Well, it did say there was sexual  
13 content, but I guess I compared it to an R movie.  
14 That has some sexual content but not --

15 Q. Well, earlier we talked about  
16 prostitution and you said you wouldn't buy a game for  
17 your son if you knew it had prostitutes in it,  
18 correct?

19 A. Correct.

20 Q. Prostitution is a sexual matter,  
21 correct?

22 A. Correct.

23 MR. NESTER: Let me object to the form  
24 of the question in your use of sexual matter, not  
25 being explicit, other than the use of the word

1 prostitute.

2           Q.        (By Mr. Steinman) Strike that. Is it  
3 fair to say that a game containing prostitutes is a  
4 game that had sexual content?

5           A.        Not necessarily.

6           Q.        Why is that?

7           A.        I've seen movies with what I think is a  
8 prostitute standing on the corner, but it doesn't  
9 necessarily have -- show anything beyond that. It's  
10 more subjective.

11          Q.        Well, with respect to the ability to  
12 approach prostitutes or have prostitutes solicit you  
13 as a player in the video game, it's fair to say that  
14 that would constitute sexual content that would be  
15 disturbing to you for your son's --

16          A.        Correct.

17          Q.        -- age?

18                    Have you ever sought to learn whether  
19 your son had the ability to modify the game to view  
20 this?

21          A.        No.

22          Q.        Why not?

23          A.        Well, I took the movie from him and so  
24 if he could -- if he -- he didn't have the movie to do  
25 that with.

1 Q. Is it fair to say that you didn't  
2 investigate that issue because either way, you weren't  
3 giving it back to him?

4 A.. Correct.

5 Q. And is that because whether he could  
6 modify the game or not, or not modify the game, you  
7 didn't want him to have that game any more because you  
8 didn't think it was appropriate?

9 A. I think he's computer savvy enough that  
10 he could have modified it, and I didn't want him to  
11 have the game back no matter what.

12 Q. The content that you had testified  
13 earlier to that you read about, I'm going to call them  
14 hot coffee scenes for sake of clarity. This is the  
15 content, that with modification of the game, could be  
16 accessed. Have you ever seen these hot coffee scenes?

17 A. I saw one scene yesterday. Is that  
18 what I saw on your computer? I saw a scene that I  
19 didn't want to look at that -- I don't know what it  
20 would be called. It was very sexually explicit.

21 Q. Referring that to -- I use the frame --  
22 phrase hot coffee scenes because that's how the scenes  
23 are described in the press and generally known and I  
24 believe that's how they're referred to in the  
25 complaint, so just why -- so you understand why I'm

1 using that phrase.

2                   When you were meeting with your  
3 attorney yesterday, it was the first time that you had  
4 an opportunity to view the hot coffee scenes that are  
5 the subject of the complaint?

6                   MR. NESTER: I'm going to object to the  
7 characterization that what she saw in my office was  
8 hot coffee scenes.

9           Q.        (By Mr. Steinman) Could you describe  
10 for me what you saw in the office?

11          A.        I saw somebody having anal sex. Just a  
12 picture.

13          Q.        You didn't see a video, you just saw a  
14 picture?

15          A.        Correct.

16          Q.        And what was your understanding as to  
17 what that picture represented in terms of its  
18 connection with this lawsuit? .

19          A.        I thought that was --

20                   MR. NESTER: Don't testify about  
21 anything that I told you. Only testify about any  
22 understanding that you have other than with -- from  
23 talking with me or any other attorney.

24          A.        I just thought that was part of the  
25 pornography that I had heard about on the media.

1 Q. (By Mr. Steinman) Was that the first  
2 time you ever saw that pornography that you heard  
3 about?

4 A. Yes.

5 Q. To your knowledge, has your son ever  
6 seen the hot coffee scenes?

7 A. Not to my knowledge.

8 Q. You talked about parents that you spoke  
9 with whose children had the game, correct?

10 A. Yes.

11 Q. Do you know if they took the game away  
12 from their children?

13 A. I do not know.

14 Q. Are -- is your son friendly with any of  
15 those children?

16 A. Yes.

17 Q. Do you know if he plays the game at  
18 their house?

19 A. Not to my knowledge.

20 Q. Did you ever have any discussion with  
21 him about that?

22 A. No.

23 Q. Why didn't you seek to return the game  
24 to the store?

25 A. I just never thought about it. I

1 didn't -- it was a used game. Stores, you know, don't  
2 take back used video games.

3 Q. When you learned of the hot coffee  
4 scenes I assume that you were upset that you purchased  
5 the game, correct?

6 MR. NESTER: Let me object to the form  
7 of the question in your use of the words hot coffee  
8 scenes. You put your own --

9 MR. STEINMAN: Fair enough.

10 MR. NESTER: -- characterization on  
11 that.

12 Q. (By Mr. Steinman) Fair enough.

13 After you read about this controversy  
14 concerning the questionable content or I should say  
15 content that concerned you, I assume you were upset  
16 that you purchased the game?

17 MR. NESTER: Just so the record is  
18 clear, the content she described as hearing in the  
19 media is pornography.

20 Q. (By Mr. Steinman) That's how you  
21 understood it?

22 A. Right.

23 MR. NESTER: That's what --

24 Q. (By Mr. Steinman) Is that what you're  
25 testifying to?



1           A.       Those were the words that were used,  
2 pornography.

3           Q.       Where did you read about that?

4           A.       I saw it on a morning talk show. And  
5 that was -- I can't remember the exact content, but  
6 pornography was mentioned. And that was enough for me  
7 to question my son.

8           Q.       And I assume that after you learned  
9 about this, you were upset that you purchased the  
10 game?

11          A.       Yes.

12          Q.       Why were you upset?

13          A.       Because I didn't want my son to be  
14 exposed to pornography.

15          Q.       And did you think that you were misled  
16 into buying the game?

17          A.       I didn't think there was pornography on  
18 the game that I bought.

19          Q.       Do you think that somebody deceived you  
20 into purchasing the game?

21          A.       I think I was deceived by the -- by  
22 what the game had in its content.

23          Q.       Could you explain your answer?

24          A.       Well, I didn't know that there was  
25 pornography in the game when I bought the game.

1 Q. So thinking that you were deceived with  
2 respect to the game's content, why didn't you seek to  
3 bring it back to the store and demand your money back?

4 A. I didn't even think about that, taking  
5 it back to the store. I guess I assumed that a store  
6 wouldn't give me my money back.

7 Q. Well, have you -- have you bought goods  
8 in a store in the past that were damaged in any way  
9 that you returned?

10 A. Yes.

11 Q. And have you bought goods in a store  
12 that didn't work the way they were supposed to, so you  
13 returned it?

14 A. Yes.

15 Q. How is this different?

16 A. To me, it's different. It's a video  
17 game that had something I didn't think it should have  
18 on it. I did not seek to return it.

19 Q. Why -- why is a video game different  
20 than any other item with respect to --

21 A. To me it's different than an appliance.  
22 The return policy about video games is totally  
23 different than other things.

24 Q. Did anyone lead you to believe that the  
25 store would not take the game back?

1           A.       No. I just never considered taking the  
2 game back.

3           Q.       Do you own other software programs such  
4 as Microsoft Word?

5           A.       I think it's in our computers.

6                   MR. NESTER: He's asking you  
7 specifically Microsoft Word.

8           Q.       (By Mr. Steinman) Or similar programs.  
9 I'll strike that.

10                   I assume you own software programs,  
11 correct?

12           A.       Correct.

13           Q.       You're familiar that practically all  
14 software programs come with what is known as a  
15 software license?

16           A.       Correct.

17           Q.       What's your understanding of a software  
18 license?

19           A.       I know in my school that if we have a  
20 license for certain software, that we have to pay for  
21 it for every game that we have. Basically, I can't --  
22 I can't buy a license for five games and share it with  
23 everybody else. I mean, I just assume you pay for  
24 what you -- for what you have, a license for what you  
25 own.

1 Q. All right. And have you ever read  
2 through one of those software licenses that come with  
3 a computer program?

4 A. No.

5 Q. You're aware that most software  
6 licenses prohibit the purchaser from copying the  
7 source code, or modifying the source code?

8 A. I never thought about it, but I would  
9 assume, yes, they would prohibit that.

10 Q. Is it your understanding that San  
11 Andreas comes with such software licenses as well?

12 A. I never thought about that until just  
13 now, but I assume, okay. I never thought about it,  
14 but I guess.

15 Q. Then I guess logically it falls that  
16 the licensing agreement prohibits somebody from  
17 modifying the source code, correct?

18 MR. NESTER: Do you know what a source  
19 code is?

20 A. No.

21 Q. (By Mr. Steinman) The computer program  
22 is run by a computer code, correct?

23 A. Okay.

24 Q. Did you not know this?

25 A. I really don't know very much about --

1 Q. Are you familiar with the term computer  
2 code?

3 A. Yes.

4 Q. What's your understanding --

5 A. I mean, do you mean like -- I didn't  
6 know that games came with a computer code. I don't  
7 know that -- I really truly don't know what -- what  
8 that means in terms of the video game.

9 Q. Well, with respect to any computer  
10 program, a software program, it's your understanding  
11 they work by some type of a computer code?

12 A. Okay, yes.

13 Q. That's correct?

14 A. Yes.

15 Q. You were aware of that?

16 A. Yes.

17 Q. You're aware that the code is usually  
18 zeros and ones in certain order?

19 A. I wasn't really aware of that.

20 Q. But you were aware that computer  
21 programs operate by means of computer code that allows  
22 them to run?

23 A. Yes.

24 Q. Being a teacher you probably heard that  
25 companies jealously sort of protect and guard their

1 code as a trade secret, right?

2 A. Right.

3 Q. And that companies take care generally  
4 to avoid having people reverse engineer or crack their  
5 computer code, correct?

6 A. Correct.

7 Q. And companies are concerned about  
8 having their computer code modified and copied,  
9 correct? Let's break that into two parts. They're  
10 concerned about having their computer code modified,  
11 would that be correct?

12 MR. NESTER: Don't just agree. Agree  
13 if you know what that means.

14 A. I really never thought about that. I  
15 mean, I -- since I'm not very computer savvy and I  
16 haven't known how to modify something or I wouldn't  
17 know -- you know, I never thought about that.

18 Q. (By Mr. Steinman) Right. Well,  
19 thinking about it, would you think that you would be  
20 allowed to modify the computer code that runs the  
21 computer program?

22 MR. NESTER: If you know what he just  
23 described, if you know what that means, you can  
24 answer.

25 A. I really -- I really -- I know you're

1 changing something, but -- but I've never done it and  
2 I -- I don't really understand the whole thing.

3 Q. All right. Well, before it's done, I  
4 image you would want to make sure that it's not  
5 unlawful, correct?

6 A. Well, I wouldn't want to do anything,  
7 correct, that was unlawful.

8 Q. And you're aware that programs and  
9 presumably games come with these software licenses,  
10 correct?

11 A. I wasn't aware of that --

12 Q. You weren't aware of that?

13 A. Until just -- if they do.

14 Q. Is there any reason why you believe  
15 that you wouldn't be obligated to follow or be bound  
16 by a software license that came with a video game?

17 A. If I knew that there was a license that  
18 came with a video game, then I would think that you  
19 would have to follow the law regarding that license.

20 Q. And if the licenses contained with the  
21 video game but you didn't happen to see it, would you  
22 agree that you then wouldn't be bound?

23 A. Well, no, if a license comes with video  
24 games then -- then you should -- then the law should  
25 be followed.

1 Q. And the software license should be  
2 followed?

3 A. Yes.

4 Q. And that would hold true with respect  
5 to San Andreas if San Andreas came with a licensing  
6 agreement, it should be followed?

7 A. Yes.

8 Q. And if the software license prohibits  
9 modification of the code of the game, then that  
10 obligation should be followed, correct?

11 A. Correct.

12 Q. If it's not followed and the game is  
13 modified in a way that -- if your son did not follow  
14 an existing software license and modified the game in  
15 a way that displeased you, for example, it showed  
16 pornography, do you believe that would be your son's  
17 fault or the company's fault?

18 MR. NESTER: Let me object to the  
19 question.

20 MR. STEINMAN: That's fine. Don't make  
21 a speaking objection.

22 MR. NESTER: Object to the form. You  
23 can say I object to the form, it's asking her to  
24 speculate as to what would happen, and it's not  
25 explicit enough of what you mean by the license



1 agreement and the modification.

2 Q. (By Mr. Steinman) Did you understand --

3 MR. NESTER: It's asking her to

4 speculate.

5 Q. (By Mr. Steinman) Did you understand

6 the question?

7 A. Well, I think it assumes -- you're

8 asking if I assumed -- would you repeat the question,

9 please?

10 Q. If San Andreas came with a software

11 license that prevented modification of its code, and

12 the code was modified by your son to display scenes

13 that you were displeased with such as pornography, do

14 you believe that would be the fault of your son or of

15 the company?

16 A. I believe it would be the fault of the

17 company for loading something like that on that game.

18 Q. Even if your son was prohibited by the

19 software license from modifying the code?

20 A. I think that it should never be on

21 there if it's -- if -- I don't understand how -- I

22 would think it would be the fault of the company for

23 making a game that that could happen to.

24 Q. With respect to learning -- seeing this

25 news report on pornography on the game, what else do

1 you recall about learning of the controversy  
2 surrounding the game before you took it away from your  
3 son?

4 A. I took it away when I -- when I heard  
5 this. I didn't hear exactly. I was doing things,  
6 possibly folding laundry. Didn't hear all of it.  
7 Realizing he owned the game, had had it for a while,  
8 that's when I questioned him and took it from him.

9 Q. When did you learn that the ESRB had  
10 rerated the game from M to AO?

11 A. Possibly when I read it in here.

12 Q. The complaint?

13 A. Yes.

14 Q. Referring to Stanhouse 1?

15 A. Yes, I'm sorry. It was a long time  
16 ago, but I think I read it in here.

17 Q. So is it fair to say you didn't take  
18 the game away from your son because you learned about  
19 the rerating, because you learned about that long  
20 afterward?

21 A. Correct.

22 Q. Tell me all you know about the  
23 objectionable content at the time that you took the  
24 game from your son. I know you had mentioned some  
25 things already. I would ask you to repeat. I just

1 want a complete understanding of all of the  
2 information that you had relating to the content of  
3 the -- the objectionable content of the game at the  
4 time that you took it from your son.

5           A.       I heard on the TV, on a news show, like  
6 how they do different things, they were talking about  
7 this game. All I heard -- all I heard was it  
8 contained pornography. Just the word pornography just  
9 -- it really bothered me, and I -- that's when I -- it  
10 was later in the day I questioned my son about it and  
11 I assumed -- because I didn't listen to the whole  
12 story, I assumed that once you got to a certain level,  
13 the pornography was there. So I asked him if he had  
14 gotten to the highest level. I can't remember the  
15 exact words I said and he mentioned something about a  
16 strip club. And -- and then I said what else, and he  
17 did not answer the way -- I'm not sure what I expected  
18 him to say, but he wasn't as forthcoming as I thought  
19 and I took the game away from him.

20           Q.       So --

21           A.       And that's what I knew when I took the  
22 game from him.

23           Q.       Nothing else about the game?

24           A.       Nothing else.

25           Q.       Prior to filing the lawsuit on

1 September 8th 2005, what else did you learn about the  
2 game, you mentioned you didn't read the complaint  
3 until after it was filed?

4 A. No. I read the complaint some time in  
5 September. I -- I'm not sure if it was filed or not  
6 filed when I read the complaint. I got it. I don't  
7 think mine had one of these things on it, but I'm not  
8 sure. I started paying more attention, I think I  
9 could have read something about it in a magazine,  
10 maybe somebody may have given me a Time Magazine.

11 I read some things in the U.S. Today,  
12 the newspaper, and it was just bothering me, as a  
13 mother, as a teacher, that there would be things out  
14 there that kids could get a hold of and I thought it  
15 was wrong.

16 Q. What else did you learn about the  
17 content of the game prior to filing the lawsuit?

18 A. I heard that there was, let's see,  
19 explicit sexual acts between -- these are things that  
20 I heard, these are not things that I know that were on  
21 there.

22 These were things that -- between  
23 different races, different -- between male and female.  
24 I was concerned about any -- I was concerned about  
25 children. I don't know if that's on there. I was

1 just concerned about this getting in the hands of like  
2 anybody.

3 Q. So you heard that there were explicit  
4 sexual acts between men and woman?

5 A. Well, between members of different  
6 sexes is what I heard.

7 Q. Different sexes, so that's men and  
8 woman?

9 A. It could be men and men -- I just heard  
10 -- that's what I heard that there were -- I'm not sure  
11 what exactly is on there, because I've never ever --

12 Q. I'm just asking you what you learned or  
13 what you understood before filing this complaint up  
14 until the time you filed this complaint. So had you  
15 heard that there was sex between people of the same  
16 sex?

17 A. Yes.

18 Q. Had you heard that there -- and did  
19 that bother you?

20 A. Well, it just -- what bothered me is  
21 that -- is that -- like my daughter, who is 18, I  
22 wouldn't want her to get -- to be able to look at  
23 things like that.

24 I wouldn't want to look at things like  
25 that. Like I said, as a teacher and mother, I don't

1 want that kind of exposure, those things exposed.

2 Q. Including to your daughter who is 18?

3 A. Yes.

4 Q. Do you believe that your daughter at 18  
5 is not the appropriate age to view those things?

6 A. I don't know if there is an appropriate  
7 age to view those things. I wouldn't want her to view  
8 those things.

9 Q. What else did you hear? You heard same  
10 sexes, sex between different races, you mentioned.

11 A. Different partners.

12 Q. Different partners. What else?

13 A. I heard something about maybe a person  
14 playing the game could interact during those things,  
15 but I really wasn't sure about that. That bothered  
16 me.

17 Q. What else?

18 A. That's about it.

19 Q. What is your understanding as to the  
20 reason why the ESRB changed its rating for the game?

21 A. My understanding is, in my mind, they  
22 made a mistake. When it was an M, it should have been  
23 -- I want to say X, but I think it's AO. I think that  
24 -- that when they -- they changed the rating for a  
25 reason.

1 Q. And do you --

2 A. Because I don't think it should have  
3 been an M. I think it should have been an AO to begin  
4 with.

5 Q. Let's put aside the modification of the  
6 game that relates to the hot coffee scenes. Do you  
7 think that the game should have been an AO, given the  
8 fact that it took place in part in a strip club and  
9 had prostitutes that you could give money to and you  
10 could act as a pimp and for those reasons --

11 A. Yes.

12 MR. NESTER: But just let me formulate  
13 an objection. I'm going to object to the form of the  
14 question, because those are your characterizations of  
15 what the game shows. It's not based on anything that  
16 she's seen in the game.

17 Q. (By Mr. Steinman) Correct. So we'll  
18 keep that question and I'll ask it in another form.

19 If the game did contain scenes in which  
20 prostitutes solicit the main character and the main  
21 character could give prostitutes money, the main  
22 character could assist in managing prostitutes, do you  
23 believe that the game should have been rated AO,  
24 putting aside the modifications with the explicit  
25 sexual scenes?

1 MR. NESTER: Again, it's your  
2 description of what the game shows --

3 MR. STEINMAN: No, I'm not, sir. What  
4 I'm asking is assuming if it showed that.

5 MR. NESTER: Okay. And, again, it's  
6 your description of assuming what the game shows.  
7 It's not based on her actual visual picturization of  
8 the game.

9 MR. STEINMAN: We understand that, but  
10 I'm not testifying. I'm not saying it shows that.  
11 I'm saying, if the game shows that, do you believe it  
12 should be rated.

13 MR. NESTER: I know, but again, you're  
14 telling her what the game could show, you're not  
15 showing her.

16 MR. STEINMAN: Correct.

17 MR. NESTER: How can you make a  
18 judgment on what the game shows without showing her?

19 MR. STEINMAN: I don't understand -- it  
20 doesn't matter. You can answer the question.

21 MR. NESTER: If you can.

22 A. Well, if I have -- when they changed it  
23 to an AO, and my -- I believe it was, without  
24 modifications, it was still changed to an AO, then it  
25 should have been an AO to begin with.



1           Q.        (By Mr. Steinman) Putting aside what  
2 the ESRB should or shouldn't do or should or shouldn't  
3 have done, I'm asking your opinion. If the game  
4 showed scenes of prostitutes soliciting a character in  
5 the game, the character in the game goes into a strip  
6 club and does a lap dance, manages prostitutes, do you  
7 believe that should receive an AO rating?

8           A.        Yes.

9                   MR. STEINMAN: Let's take a two-minute,  
10 break.

11                   (A temporary recess was taken at this  
12 time.)

13          Q.        (By Mr. Steinman) At the time you took  
14 the game away from your children, to your knowledge,  
15 was the game still working properly?

16          A.        Yes.

17          Q.        Had your children ever complained to  
18 you about the game malfunctioning or not working  
19 properly?

20          A.        No.

21          Q.        To your knowledge, is the game today  
22 still working properly?

23          A.        To my knowledge.

24                   MR. STEINMAN: I have no other  
25 questions.

MR. NESTER: We will waive.

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